

# **EXHIBIT F**

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February 13, 2020

**BY EMAIL**

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Re: *CSX Transportation, Inc., et al v. Norfolk Southern Railway Company, et al*  
Civil Action No.: 2:18-cv-00530

Dear Alan:

I write on behalf of CSX Transportation, Inc. ("CSXT"), in response to certain issues outlined in your letter dated February 10, 2020, and in furtherance of our continued dialogue regarding ongoing discovery in the above-captioned action.

First, enclosed with this letter is CSXT's First Supplemental Rule 26(a)(1) Disclosures, which supplements CSXT's identification of individuals who may have discoverable information in this action. As the parties are aware, CSXT intends to further supplement these disclosures with respect to its damages calculations after it receives all of the data and information necessary to calculate its damages.

Second, the email transmitting this letter includes a password-encrypted link to documents being produced on a rolling basis in response to the Requests for Production of Documents issued by Norfolk Southern Railway Company ("NSR") and Norfolk & Portsmouth Beltline Railroad Company ("NPBL"). The password to access these files will be provided by a separate email. This production includes a .csv file containing waybill information in response to Request No. 1 from NSR's Second Requests for Production of Documents (Bates No. CSXT0108768) and in accordance with the parties' agreement as memorialized in Ben Hatch's letter to Michael Lacy dated January 15, 2020.

As you note in your February 10 letter, NSR has produced some waybill information to CSXT in response to CSXT's Request for Production No. 26 and in accordance with the parties' agreements. NSR's productions to date do not appear to include any waybill information for years prior to 2015, however. CSXT's Request No. 26 expressly seeks data "for the time period

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since January 1, 2007.”<sup>1</sup> This information is directly relevant to CSXT’s claims, and will be used by CSXT’s expert analysis and computations, including computation of damages. Accordingly, CSXT asks that NSR immediately produce waybill data dating from *at least* 2009. Absent production of this data (or indication that production is forthcoming) by close of business on February 14, 2020, CSXT submits that, despite their best efforts to meet and confer, the parties have reached an impasse on this issue.

Third, with respect to the deposition notices, Mr. Armbrust is available on March 10 and March 11, and Mr. Booth is available on March 12. Mr. DiDeo is not available the week of March 9, but is available March 18 and 19. We are in the process of confirming the availability of Mr. Allan. We will follow up with confirmation regarding deposition dates as soon as possible.

With best wishes, I am

Sincerely yours,



Robert W. McFarland

RWM:kyw

Encl

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<sup>1</sup> The parties also agreed in the ESI Order that a date range of January 1, 2007 to present applies to ESI subject to discovery in this matter.

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